

City of Springfield
Work Session Meeting

MINUTES OF THE WORK SESSION MEETING OF
THE SPRINGFIELD CITY COUNCIL HELD
MONDAY, NOVEMBER 8, 2004.

The City of Springfield council met in a work session in the Library Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, November 8, 2004 at 5:30 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Ballew, Woodrow, Lundberg, Ralston and Fitch. Also present were Assistant City Manager Cynthia Pappas, City Attorney Joe Leahy, City Recorder Amy Sowa and members of the staff.

1. Revenue Proposals Review.

Finance Director Bob Duey presented the staff report on this item. Council has requested to review previous alternative revenue proposals where further information has been requested or that may have been temporarily tabled. A single work session has been scheduled to review all four of the significant revenue proposals that may still be under consideration for next fiscal year. Each potential revenue source has its own required timelines and issues to be presented by staff for further council discussion. The Utility Tax and the possible Fire District merger have immediate timeline considerations while the Library District formation and the Business License Program are in need of general direction.

Staff has begun the budget process for next year and is updating the three, five and ten year projection for the General Fund and other funds. In conjunction with that, the Executive Team will be meeting offsite next week doing some longer range planning. Council's direction this evening will help enhance that conversation. He noted the projections when creating the FY04-05 budget which showed deficits in the coming years.

Council consensus was to hear the presentation followed by questions on each item individually.

Councilor Fitch said when looking at assumptions of revenue and expenditures it would help to look at the significance of the increase in expenditures on the budget. She would like to look at the overall increase in revenue versus the overall increase in expenditures which could show any restraints or opportunities.

Bob Duey said the General Fund (GF) is about \$24M with property taxes being over fifty percent of that revenue. The growth of property taxes dictates a major part of the entire fund. Property tax information was just received in the last few weeks from the county. The city had projected a 3.5 percent increase and it actually showed a 4.2 percent increase. The numbers listed in the packet do not reflect those figures. The new numbers will be out in December.

Councilor Ralston asked what the difference was in terms of actual funds between 3.5 percent and 4.2 percent.

Mr. Duey said it is about \$80,000-\$90,000. Fees and charges make up a small percentage of the budget and any increase in those areas do not significantly influence the overall percentage of the growth in the GF. Franchise fees are the third biggest item and are growing between 3.5 percent and 4 percent. State shared revenue and city indirects are the second largest item and have a growth rate of about 2.5 percent. Expenditures are primarily driven by labor contracts, health insurance, retirement expenses, etc. There will be a minimum of about 5.5 to 6.5 percent growth in personal services. Public safety contracts are higher still. Overall there will be about a 3 to 3.5 percent deficit.

Councilor Ballew said the Public Employees Retirement System (PERS) number surprised her because the city is relatively new to PERS.

Mr. Duey said we are trending higher than the seventeen percent that was anticipated. The rates for the next two years starting July 2005 will be out in December. Benefits are something the city doesn't have a lot of local control over and are difficult to overcome. The Health Incentive Program (HIP) and Health Reimbursement Account (HRA) have helped to minimize the impacts to a degree.

Councilor Ballew said we would have to reduce services to stay balanced.

Mr. Duey said that is why staff is bringing forward these revenue proposals. Staff has already worked on efficiencies and services. It is very difficult without removing complete services to lower expenditures.

Councilor Lundberg said the benefit packages do hurt the city in terms of how to control costs. She asked what was being done regarding the PERS situation and where there might be some hope of seeing a light at the end of the tunnel with these escalating costs.

Mr. Duey said there is no real answer to that question. Benefits Manager Ardis Belknap has spent a lot of time working on the PERS issue and is active on a number of committees at the state level studying this issue. The city is doing what they can as an agency working with the League of Oregon Cities (LOC) on PERS legislative changes. Changes to PERS will not come quickly. Ms. Belknap is also very active in researching ways to decrease health insurance costs and the City of Springfield is one of the lead agencies in the area regarding the HIP and HRA. The increases are still double digit growth, but less than other plans.

Ms. Pappas said internally staff is trying to educate employees on use of prescriptions, and other health care issues to keep costs down. It is a federal issue.

Councilor Lundberg said we would not have any relief regarding PERS for at least five years.

Mr. Duey said they are not even through with PERS legislation from two years ago. Any change will be court challenged, will run through the system and take another two years.

Councilor Ballew asked about the tiers in PERS.

Mr. Duey said they have a new program with a third level. Some things are being done that will affect new employees coming in at lower levels.

Councilor Fitch said she understands that growth in many other entities is closer to 30 percent rather than 19 percent the city is experiencing. She suggested looking at comparables regarding health benefits with public and private entities. The city needs to do a check on what employees are getting in terms of benefits and insurance in non-public agencies.

Mr. Duey said following the last round of negotiations, at the end of this year all employees will be paying a portion of their health insurance costs.

Mayor Leiken said this will be a topic of discussion in the coming year for the budget. It would be good to hear if the unions would allow information from the public and private sector to be considered during negotiations. They would all like to hear what the private sector is doing regarding benefits.

Mr. Duey said Human Resources have a work session scheduled before council goes on recess to discuss this issue.

Councilor Ballew said there are two sides. Salaries and benefits are the city's highest expense, but that does not mean the council doesn't value the employees. The only way to continue the same level of payment to employees would be for the city to lower services. Comparisons are difficult between the public sector and the private sector because of a number of variables.

Utility Tax: Technical Services Manager Len Goodwin presented the staff report on this item. He presented a power point presentation on Utility Compensation: Changing the Paradigm. At a work session held on March 29, 2004, the council directed staff to explore the possibility of adopting a Utility Tax as one strategy to stabilize existing revenues from franchise fees as well as for increasing revenue to make it possible to fund critical general fund services. As a result of that direction staff prepared a draft ordinance and solicited comment from the affected industries. The memorandum included in the agenda packet reports on the results of those efforts and reviews a draft proposal for a utility tax which responds in a way staff believes is appropriate to the issue raised during the course of that process. Staff requests that council consider this material and provide further direction to staff with respect to whether a draft ordinance should be presented for a public hearing and possible adoption.

Mr. Goodwin's power point presentation started with the statement that "Technology Complicates the Rent Model". This model is what cities in Oregon have relied on for many years. The current design of the rent model captures only use, not beneficial use. Identifying the players becomes difficult. Because the right of way nexus is complex, many participants avoid their obligation.

Mr. Goodwin referred to a chart showing Franchise Fee Revenue Trends. The chart outlined City of Springfield revenues from three franchises from 1992 to date. He discussed the revenue.

Mr. Goodwin discussed Wireless Penetration Rates. As of 2003 54% of the national population owned cell phones. He noted a graph showing the Subscribership Trend for cell phones and a chart comparing the Oregon Wireline versus Wireless Trend. It is estimated that by 2008, a third of the population will not have a land based phone but will rely solely on cell phones. Cell phones are subject to virtually no taxation. He referred to a chart which showed the 2004 Tax Rates on Wireless Service across the country. The rates range from sixteen percent in New York

and Washington to two point two-seven percent in Oregon. The Oregon tax is limited to the 9-1-1 tax with a small subsidy for telecommunications devices for the deaf and low income.

Mr. Goodwin said that what staff proposed in March was a different model not based on the concept of rent, but on the concept of doing business. The nexus for taxation becomes the conduct of business, not physical presence. Those who benefit from right of way presence by others can be reached. Staff proposed to tax all utilities at the same rate, whether they have facilities in the right of way or not. All of them benefit from that service so conceptually this is not different. It is taxation and is being done broadly so all those who are benefiting from this business are taxed equally. All of these businesses are doing business in Eugene, Springfield and other parts of the state. Some of them are not contributing their share as are the other companies. Local government, because of the technology, has lost the ability to capture equal amounts of revenue from every participant.

Mr. Goodwin said the Springfield Ordinance is a two part ordinance. It expands upon the existing ordinance which regulates telecommunications licensing and applies it to all utilities. Presently it applies only to public utilities. Oregon law distinguishes between public utilities and municipal utilities. This ordinance proposes to continue that distinction, but that is a policy decision for the council.

Mr. Goodwin said the current Telecommunications Licensing Ordinance contains a number of provisions which relate to the use of the right of way requiring licensees to provide information on how they propose to use or how they are using the right of way. All of those provisions would be moved in the proposed ordinance to other portions of the Municipal Code where they directly relate to those who are seeking permits to physically place things in the right of way. A company that does not propose to use a right of way does not need to provide information on something that is irrelevant in terms of acquiring a license.

Mr. Goodwin said the licensing is a fee process. That license would grant the licensee access to the right of way if there were a communication or form of service required. In addition to the licensing there would be taxation. The tax would be five percent of gross revenue. The definition of gross revenue is broadly defined. One of the comments from the industry is that the original definition of gross revenue captures things such as sales of assets and other transactions which were not part of their principal business activity. In response to that, the definition of gross revenue was changed to accord with the revenue definition in statements by the Financial Accounting Standards Board.

Mr. Goodwin said because the city does have a number of existing franchises, staff's view is that it would be inappropriate to impose a tax of this nature on top of the existing franchise. That would be taxing a company twice. As a result, the draft ordinance continues what staff proposed in the original draft, which is a dollar for dollar credit against the tax for any franchise fees paid. If a company were paying franchise fees on some other basis other than relationship to the revenues upon which the tax is levied, they would continue to pay those fees. He gave an example.

Mr. Goodwin said there could be areas of revenue that would fit into this definition of gross revenue that are the subject of controversy. Those areas were listed. Those are subject to ongoing litigation or subject to legislative proposals in the state legislature or in congress. Staff does not know where these legislative actions will go, but have tried to craft a general definition

of revenue so that in the event the legislature excepts out certain revenues, they would not be taxable under the ordinance as well. There is a provision in the ordinance for these cases.

Mr. Goodwin referred to a table with Revenue Potential. It is very speculative as they were unable to get the information needed to calculate these figures more accurately.

Councilor Lundberg asked if the revenue was based on the fee and the tax or only one.

Mr. Goodwin said the license would be in addition, but it is expected to be nominal, perhaps around \$12,000 - \$15,000. The fee is based on the amount needed to recover the cost of providing the service.

Councilor Ralston asked how the figure of fifty percent for cellular phone owners was calculated when the number for wireline was 348 and for cellular was 226. He asked how Mr. Goodwin arrived at the difference.

Mr. Goodwin said the difference is an anomaly in Oregon law. Under Oregon law, the incumbent local exchange carrier is required to pay a seven percent franchise fee on exchange access revenues. Exchange access revenues represent somewhere between one third and one half of the company's revenues. The city is not imposing a fee or tax on about one half to two thirds of the incumbent provider's revenue stream. This tax would capture those additional revenues and impose a tax on it. That is why it appears much higher proportionally.

Councilor Ralston asked if it was possible that some people have both wireline and cellular phones. This tax may discourage people from doing that so one or the other may drop off.

Councilor Ballew asked if there would be a difference if it was five percent for one and seven percent for the other.

Mr. Goodwin said it would to some extent. There are questions about how the city collects the revenue and what the ultimate impact is, if in fact people continue to drop off the wireline and go exclusively to cellular. It is possible that the revenue increase over time would not grow. It is very difficult to predict. Some of the revenues that are under a certain amount of controversy are not generally reflected in those numbers. The cable revenue increase showed zero, yet if cable modem service was subject to this tax, there may be another \$75,000 - \$100,000 a year. He discussed a decision currently at the Ninth Court of Appeals that may affect the ability to tax on that revenue.

Councilor Ralston asked if DSL was in litigation.

Mr. Goodwin said there was a proposal in the last congress to amend the Internet Tax Freedom Act that would have excluded DSL from the revenue base that could be subjected to tax. That proposal did not find agreement and it is unlikely it will be brought back in the lame duck session. Mr. Goodwin said staff expects there will be similar legislation introduced into Congress in the next session. If it passes, those revenue numbers would probably be more accurate. If it does not pass and DSL can be subjected to a tax, there would be additional revenue.

Councilor Ralston asked if cable TV would be taxed, but dish TV would not.

Mr. Goodwin said that is correct under Section 602 of the Telecom Act of 1996.

Councilor Lundberg said it is an issue of leveling the playing field. There are other means of communication that will argue that they are taxed while others are not.

Mr. Goodwin said it is possible when the Telecommunications Act is subjected to review in the next session that Provision 602 may not survive. Section 602 specifically prohibits local government to tax indirect broadcast satellite. It does allow state governments to do so. If that provision were not to survive the renewal of the Telecom Act, then that aspect could be dealt with at the state level.

Councilor Fitch asked if the data collected shows the younger generation has more cellular than landline than the older generation.

Mr. Goodwin said that is correct. Staff feels that is another reason the city should move in that direction because ultimately wire line revenues could disappear.

Councilor Fitch asked if other places were looking at this option.

Mr. Goodwin said Portland is discussing this with their council on Tuesday, November 9 at the same percentage. The City of Creswell is taking this for a first reading to their council in two weeks and the City of Albany in the next several weeks. There are other cities in Lane County at various stages of discussion about this option.

Councilor Woodrow asked about the state and if they are looking at this revenue stream.

Mr. Goodwin said he has not heard anything that would suggest that the state is looking at this particular revenue stream, but they may in the future. He referred to a document included in the agenda packet from the League of Oregon Cities (LOC) which notes there are a number of states who have moved in this direction in terms of authorizing local governments to impose this tax and collect the revenue. There are also states that have moved in this direction, imposing the tax at the state level and keeping the revenues.

Councilor Lundberg asked how this would show up on the customer's bill. At this time the franchise fee is listed as such. Although it is the company absorbing this cost, it still becomes a consumer issue.

Mr. Goodwin said that is correct; however, as the ordinance is drafted, it need not be passed on to the consumer. There are often inefficiencies in the marketplace and competitive reasons why a company may choose to undercut its competitors' rates. One of the ways they can do that is to not pass on the full amount of the tax. Unlike the systems in place in California and a couple of other states where the tax is imposed on the user, this tax is imposed on the utility. As such, it is part of the ordinary operating expenses of the utility for purposes of their Federal Income Tax. This tends to reduce their adjusted gross income for taxation purposes. If they chose, they could absorb a portion of this tax and still retain their same profit margin.

Councilor Ralston asked what the impact would be on a typical family. If this is going to raise \$750,000, someone will be paying for it. Businesses will not likely absorb this cost themselves. It could affect interstate commerce.

Mr. Goodwin said on the average cellular phone bill, which is in the range of \$40-\$55 month, it would be a \$2 a month fee. On a land line phone, it would affect long distance by adding five percent to the cost of the long distance bill. It would not affect the basic phone service bill, which is already subject to tax. In fact, it may reduce the cost because this tax is five percent and the current fee on local exchange access is seven percent. On natural gas, it may have an impact on large commercial users who are buying gas from other companies and having to transport it to them through Northwest Natural Gas pipelines. For the average NW Natural Gas customer, it would have no impact. NW Natural is currently paying five percent on its retail revenues and will continue to do so.

Councilor Ralston said he doesn't see where the money is coming from because it doesn't calculate with the number of residents in Springfield.

Discussion was held regarding the higher use of many users and businesses which would be paying more. It does get passed on to the individual somehow. If it is an operating expense, which reduces a company's federal tax as another deduction, companies may not pass it all on to customers.

Mayor Leiken said we need to look at trends, not only in the use of cellular phones, but from an economic standpoint. Years ago, manufacturing was where the taxes came from, but today it is through the air, wireless. There has been ongoing discussion in the legislature on how to capture that. He asked Mr. Goodwin if there were communities in the State of Washington and California looking at this or just the states as a whole.

Mr. Goodwin said the state legislature in California enacted an act which authorized cities to impose a user utility tax and a number of cities have imposed that.

Mayor Leiken said Washington and California have the highest level of commerce that goes through the air. These companies are transferring and transmitting and making money. The trends have changed and we want to continue the competitive edge in Springfield. The competitive edge should be based on our backbone and the technology we have in place here.

Mr. Goodwin said the taxes in Washington are at seven to ten percent compared to the five percent proposed in this ordinance.

Mayor Leiken said Oregon will not be a major manufacturing state, but will be more in competition in technology and call centers. He asked Mr. Goodwin to discuss what is happening in Washington DC. The pre-emption argument is moving forward and cities could be pre-empted from charging any of these taxes or fees.

Mr. Goodwin said there is a high level of concern that during this session of the legislature there will be a substantial push to pre-empt local governments from exercising this type of authority. For a number of legislatures since 1996, the industry has insisted on preventing local governments from going in this direction. Most of the time, that has been unsuccessful, but the

industry has now come together in agreement against this and that has heightened the fact that if cities wait to enact such ordinances, the legislature will prevent cities from acting at all.

Councilor Fitch asked if enough cities had enacted this type of tax so it is defensible.

Mr. Goodwin said it is clear from all of the litigation that has surrounded franchise fees and gross revenue based fees, that the power to tax is not challenged. The industry has challenged the rent concept, but the ability to impose taxation goes unchallenged. In Oregon it derives from home rule, and in other states it derives from statute. In every case, the ability to tax is the ability that local government retains.

Councilor Ralston asked if the city would have to wait to enforce this if it was passed and a civil lawsuit was filed.

Mr. Goodwin said various cities have discussed this and have confirmed that a tax is the least likely to be subject to litigation.

Councilor Ballew said Mr. Goodwin is correct. No one likes to pay taxes, but without taxes there would be no city services. The city's property taxes compared to our expenses is declining as time goes by. This is clearly a tax. We are providing services and should make some revenue from this. She feels the city should move forward with this ordinance.

Councilor Woodrow said his biggest concern is that this is a tax. The city just asked the citizens to pay for a new police facility and the levies will be coming out for renewal in two years. He noted that it will come out on the bill as a City of Springfield tax and that concerns him. He understands the need for new revenue and those that are not paying it now are not being adequately charged as the others are, but it is a concern. Those that pay are paying for the convenience of the service.

Councilor Lundberg asked if the city would be able to maintain a local ordinance if the state were to create their own tax. She asked if the consumer would then be taxed by both the city and the state.

Mr. Goodwin said the history of preemption and grandfathering in this state is a checkered one. If there were a significant number of cities representing a large portion of state, it would become less likely the state would prevent the imposition of the tax, reverse the imposition of the tax or impose its own tax in addition to the local tax. Springfield residents might be distressed if an Oregon tax was imposed on top of the local tax, as would Portland residents.

Mr. Leahy asked if it could be possible that the legislature could determine that this particular area is a matter of statewide concern and determine that all these cities that have gone forward are out of step with that. They could then possibly put in some kind of amortization to bring it all to a statewide tax.

Mr. Goodwin said it is a possibility. He said the closest example to that is the smoking ban, in which ultimately the state acted but not in a way that impaired the enactment of local government. Portland is planning to hold its first reading on December 9 and adopt the ordinance on December 16.

Councilor Fitch said there could be other cities in the Portland area that could also enact such an ordinance which would make it more difficult for the legislature to take this away from large populated areas.

Discussion was held regarding other cities that may impose this fee and how the state would view that.

Councilor Fitch said staff is asking for direction to go forward and work on this ordinance.

Mayor Leiken and Councilors Ballew, Lundberg, Fitch and Woodrow approved of bringing this forward.

Councilor Ralston was opposed.

Mayor Leiken said there would be a public hearing to allow companies and members of the public to testify. There is a trend doing away with franchise fees. He is concerned with the pre-emption issue.

Ms. Pappas said one of the first things the legislature would be looking at during their next session would be federal revenue sharing.

Mayor Leiken asked who the recognized leader in the state legislature was in telecommunication issues.

Mr. Goodwin said Senator Nelson is very heavily involved and is probably the closest to the lead.

Mayor Leiken recommended continuing the dialogue with Senator Wyden's office and others in the legislature.

Councilor Ballew asked about the timeline. She said it should be moved forward before the end of the year.

Mr. Goodwin said staff would return to council with financial data. There would be one public hearing which could be scheduled anytime. The critical issue regarding the pre-emption is the date the ordinance is enacted. Portland is planning to make their ordinance effective July 1, 2005, but they believe they need to have it enacted prior to December 31, 2004 and he shares that opinion.

Councilor Fitch said education of our citizens is the key. This will not change anything for those who only have a land line.

Discussion was held regarding which topic to discuss next and starting the Springfield Economic Development Agency (SEDA) meeting later than originally scheduled.

Business License Program:

Fire District Merger:

Library District Formation:

Councilor Ralston said he is still opposed to the Fire District and Library District. The amount of the tax increase for those items alone would be more than the citizens of Springfield are willing to pay. He doesn't mind going to the citizens asking for funding to staff the jail. He wants to be up front with the citizens and ask them for what the city needs and what it is going for, rather than putting it all in the General Fund.

Councilor Woodrow said he favors the fire district, but feels the timing would be disastrous. It would have to go to vote at the same time as funding for the jail and renewal of levies would come before the voters. If we were to go to a fire district, the city would need to give the additional tax money back to the citizens because he does not believe citizens would agree to allow the city to keep that.

Ms. Pappas said if council initiated a metro plan amendment to address this issue on November 15, 2004, the Boundary Commission action would occur on April 7, 2005 and a vote to the citizens would go out in November 2005.

Councilor Woodrow does not oppose going forward with the metro plan amendment. For the city it would make sense for future.

Councilor Lundberg said she is not opposed to Fire District, but does not feel it would work unless it was countywide. She would be interested in talking about it when it includes Eugene and other cities. There are too many districts and she does not feel we should have a Library District. She would be interested in a Library District only if it were Lane County. The biggest issue is that there are students in Springfield School District 19 who cannot check out books at the Springfield Library. She is very supportive of a business license program. She said it is a good way to track how people are doing business in the city and would offer consistency. It could be proactive and helpful to businesses. It would not need to be too cumbersome.

Councilor Woodrow said he agreed with Councilor Lundberg regarding business licenses. It could give the city a mechanism to deal with undesirable businesses. It could ensure the city doesn't have the wrong businesses in the wrong zoning. It would not be a big revenue builder but would be beneficial for the city.

Councilor Ralston said he supports the business license. He is concerned that businesses are opening and the city doesn't even know about them. He doesn't have a problem with businesses in general, but with their location. This would be a way to track and work with people for appropriate zoning. It is not a big revenue generator, but it does offer some funding and could fund the D.A.R.E. Program.

Councilor Ballew said she agrees that we should have business licenses. One of the jobs of government is regulation and that means placement, type of activities, etc. The city would want to recover the cost of regulating. She said she wants to be careful that the business tax is not set too high as to be a disincentive for anyone to locate a business in Springfield.

Mr. Duey said as the ordinance was currently drafted and presented to council last time, it was a combination of a fee and tax. Everyone would pay a flat fee, which was the license part. From that a scale was put on based on the number of employees which made up the tax portion, which could allow expansion of the program in the future. If council would like to change that format, staff could go back and make adjustments.

Discussion was held regarding the suggested fees.

Councilor Woodrow asked if the Springfield Chamber was supportive of the business license.

Mr. Duey said staff has talked to the Executive Director of the Springfield Chamber and received mild support. The Chamber would assist staff in talking with businesses and bring in the service aspect of the license. The Chamber cautioned the city to proceed slowly and to work with businesses to educate them on the processes.

Councilor Ballew said she would also like to check in with the public before going forward.

Councilor Fitch said she agreed to have staff go forward with a business license proposal. It would not necessarily be a way to screen businesses because the city can't exclude businesses if they fit into a zone, but the city would have knowledge and could track complaints and other issues. From a political standpoint, she would like to see council go forward with the ability down the road to be able to put a special district in place. Lane County and Eugene are both discussing amending the Metro Plan to allow special districts and this would be a good time for Springfield to also look at an amendment. She is concerned that in two or three years the city would choose to go forward with a special district, but there would be nothing in the Metro Plan that allowed that and the doors would be closed. There needs to be an avenue. Springfield is part of the Metro Plan. When changes need to be made, the chances of getting support for the change are better when others are also making changes. The last ruling from the Boundary Commission said special districts are not allowable according to Metro Plan. She feels the city needs that option.

Councilor Ballew suggested that if a change to the plan is made, it is made in a general way that would work for all three jurisdictions.

Discussion was held regarding the decline in revenues from property taxes and the level of service still expected from the city.

Discussion was held regarding a change in the Metro Plan giving additional options in the future and prioritization of services.

Ms. Pappas said a change in the Metro Plan could be written with universal language for all three jurisdictions, but it may not be politically feasible because of differences of opinion.

Councilor Fitch asked if it could be written universally allowing Springfield the ability to create a special district without telling Eugene or Lane County

Mr. Leahy said it could be written in that way. Mr. Kelly had proposed earlier that the change could be specific to Springfield, and not refer to Eugene or Lane County. Mr. Leahy asked if council wanted language that the City of Springfield could use, Eugene could use or Lane County could use or all three could use together.

Mr. Grile said the last proposal was proposed on August 16, 2004 as a type II amendment, which is a significant concept.

Mayor Leiken said it is beneficial to have the Metro Plan amendment as a tool. Unless the city moves forward to remove itself from the Metro Plan, this is the only option.

Councilor Ralston said he is not willing to get out of the Metro Plan and he doesn't see any point in changing the Metro Plan for something the city may want to do in the future when the citizens haven't decided that is what they want.

Councilor Woodrow said the amendment to the Metro Plan gives the citizens the option to choose whether or not they want a special district.

Councilor Fitch said with the current Metro Plan, if one entity vetoes a change, the change cannot be made. Without the change in the Metro Plan, if an election showed the citizens of Springfield wanted a Fire District, it could not come to fruition.

Mr. Leahy said someone, such as the Boundary Commission, who was opposed to what Springfield wanted to do, could choose not to approve a proposed amendment to the plan, or could make a presentation stating it was not in accordance of the Comp Plan.

Councilor Fitch said that when it came before the Boundary Commission in February of 2004, she had stated that the council voted to put the Fire District out to the citizens for a vote, but that didn't change the Boundary Commission's decision. At some point, the city will have a limited amount of dollars and choices will need to be made on the services provided. She would like to have an option to have a way to fund a service.

Councilor Lundberg would support the Metro Plan change, but the city could always run a levy every several years to provide funding for certain services. A levy could be used to fund the jail. The city will need to go to the voters of Springfield one way or another. Changing the Metro Plan would allow discussion and it would still go out to the voters.

Councilor Ballew confirmed that she would like the language in a Metro Plan to be universal for all three jurisdictions.

Mayor Leiken said if there are ways to create more autonomy with some changes to the Metro Plan that would be a good thing.

Councilor Lundberg said both districts being discussed don't just affect Springfield.

Mayor Leiken said he does not approve business licensing, but will support council's decision. He feels Oregon is already a very regulated state and more regulation is not necessary. He asked if such a license would stop strip clubs and adult book stores.

Mr. Leahy confirmed that it would not stop them from establishing their business in Springfield.

Discussion was held regarding a bond on certain types of businesses.

Mr. Leahy said he would like to look at the percentage factor as referred to by Mr. Duey. Under state law, if a fee is set it is based on the service provided. Staff needs to find a way to justify a sliding scale.

Mayor Leiken said there is already a tremendous amount of that done by our Fire Department now through the Fire Marshall's office through inspections, etc.

Councilor Fitch asked if there was support for a business license at the state level from the League of Oregon Cities (LOC). She asked if there was a way for cities to have their citizens vote to increase their tax base.

Councilor Ballew said she didn't believe that would work because it would take an Oregon Constitutional amendment.

Councilor Fitch asked if there was any support from LOC in looking at an amendment to the Oregon Constitution.

Councilor Ballew said she is not aware of that issue coming up at the LOC meetings.

Discussion was held regarding such an amendment and reasoning for such an amendment.

Ms. Pappas said in summary, council approved moving forward on the Utility Tax, moving forward on a Business License, and looking favorably on a universal Metro Plan amendment that would address districts as service providers and if possible make it specific to allow Springfield to do that without infringing on Eugene or Lane County.

Councilor Fitch confirmed that it would require a vote of the Springfield voters before going forward.

Mr. Leahy said it is possible for the Springfield City Council to look at this again, but perhaps not possible in terms of the City of Eugene and Lane County approving such an amendment.

Councilor Woodrow said there must be a way with business license to restrict the position of certain businesses.

Discussion was held regarding cities' ordinances that have similar regulations.

Mr. Leahy said those communities are not located in Oregon. The Oregon Supreme Court interprets the First Amendment in our State Constitution more broadly than the U.S. Supreme Court interprets the First Amendment of the Federal Constitution. A city cannot have content based decision-making in terms of where you site businesses. He could draft an ordinance to that affect, but the city would be sued and would lose the case. He is not interested in losing cases and causing the expenditure of those extra dollars. The city can do some things in terms of business license that would allow the city to catch some things that relate to building and safety, but not to eliminate adult stores.

Ms. Pappas said with a Business License program, the city would be able to be proactive in regards to use that was not in conformance with zoning. It cannot be content based.

Councilor Lundberg discussed actions taken by existing businesses and how they can have an impact on businesses that come into area. Changes will be slow and will not be by virtue of the city's ordinances.

ADJOURNMENT

The meeting was adjourned at 7:20 pm.

Minutes Recorder – Amy Sowa

Sidney W. Leiken
Mayor

Attest:

Amy Sowa
City Recorder